Deposition of
John Schlafly

Date: June 17, 2021

Case: PHYLLIS SCHLAFLY REVOCABLE TRUST, et al., v. ANNE CORI, et al.

No. 4:16-cv-01631JAR

Court Reporter: Tina M. Catlett, CCR

1   Q.   Are there any other alleged trade

2   secrets at issue other than the database?

3   **A.   I don't think so.**

4   Q.   In your words, what is the Schlafly

5   Database?

6   **A.   The Schlafly Database is the collection**

7   **that was assembled and built over decades of**

8   **Phyllis Schlafly supporters, donors, fans,**

9   **subscribers, members, you know, all of those words**

10 **are somewhat loosely defined, and -- but it's lists**

11 **of people, a complex collection of lists with**

12 **different parameters as to where they came from and**

13 **to, if they gave money, how much they gave, what**

14 **organization they supported, what their interests**

15 **are, and so forth. And these were originally in a**

16 **-- you know, back in the -- originally set up on --**

17 **done by handwriting on index cards and later they**

18 **were moved to a kind of an office records system**

19 **that involved typewriter and keeping a card file**

20 **and then later they were moved to a computer which**

21 **was the kind of computer they had in the 19 -- can**

22 **you hear me?**

23   Q.   Yeah.

24   **A.   Did you all hear that voice?**

25   Q.   It sounded like an Alexa talking.

1   **A.   I hope that didn't come from me. I**

2   **don't know where that came from.**

3   Q.   Let's just see if we have any more

4   issues with it.

5   **A.   So then eventually, you know, when**

6   **computerized, and there were several generations of**

7   **computers and, you know, eventually became computer**

8   **organized database. We call it the database**

9   **because every time -- I'm sorry. I'm looking for**

10 **the source of that voice.**

11   Q.   Let's go off for a second and try to

12 figure this out.

13   MR. LEIMKUEHLER: Sure. We are going

14 off the record at 3:55 p.m. Central Standard Time.

15   (OFF THE RECORD.)

16   MR. LEIMKUEHLER: We are back on the

17 record at 3:56 Central Time.

18   BY MR. SOLVERUD:

19   Q.   Were you done with your answer to the

20 question?

21   **A.   Yes.**

22   Q.   So to be clear, in its first generation

23 the database was index cards, actual things, right?

24   **A.   Yes.**

25   Q.   And then it was a card file, right, I

1   think is what you -- your term?

2   A.   Yes.

3   Q.   And then it was actually put onto one or

4   a series of computers; is that right?

5   A.   Yes.

6   Q.   And now it exist, I guess, as a

7   database, it can be either on a computer or even in

8   the Cloud; is that fair?

9   A.   Yes.

10   Q.   But it's a thing, right, notwithstanding

11   all of that? You can print it out, you can do

12   things to it, it's an actual object; is that fair?

13   **A.   A thing? Okay, I guess it's a thing.**

14   Q.   Like the index cards were a thing,

15   right?

16   A.   Yes.

17   Q.   It's just taken different formats. It

18   can be printed out; is that right?

19   MR. NORTHON: Objection as to form.

20   **A.   Well, there's no -- it cannot easily be**

21   **printed out because it does not -- it wouldn't fit**

22   **on any type of paper unless it was formatted in**

23   **such a way and if so it would take many, many**

24   **thousand of pages to print it out and that would**

25   **not be useful to print it out. I guess in**

1   principal, any, you know, computer data that can be

2   translated into characters which can then be

3   printed on paper somehow. That wouldn't be useful

4   to do but theoretically I guess it could be done.

5   BY MR. SOLVERUD:

6   Q.   It can be put onto a flash drive,

7   correct?

8   A.   Yes.

9   Q.   You could export the data to an Excel

10 spreadsheet or file, correct?

11   MR. NORTHON: Objection as to form.

12   A.   It could be exported to different

13 formats.

14   BY MR. SOLVERUD:

15   Q.   Among the information, if I understand

16 your testimony, it includes addresses, e-mail

17 addresses, telephone numbers, donation history and

18 records related to the donations, like who they

19 were made to; is that all fair?

20   A.   Yes.

21   Q.   Is it your position that PSRT is the

22 sole owner of the Schlafly Database?

23   MR. NORTHON: Objection as to form.

24   A.   Our position is that PSRT is the owner

25 of the database and that it's been managed for many

1 **years by Eagle Trust Fund for the benefit of the**

2 **PSRT.**

3 　　　　　BY MR. SOLVERUD:

4 　Q.　　Is it your position that Eagle Trust

5 Fund is a licensee of the database?

6 　**A.　　Yes.**

7 　Q.　　Is that license written down anywhere?

8 　**A.　　No.**

9 　Q.　　Is there any sort of writing that sets

10 forth the express or explicit terms of the license

11 that's been granted Eagle Trust Fund with respect

12 to the database?

13 　**A.　　No.**

14 　Q.　　Does PSRT derive any income from the

15 database?

16 　**A.　　PSRT has not derived any income from the**

17 **database.**

18 　Q.　　It doesn't get license fees or anything

19 like that from Eagle Trust Fund?

20 　**A.　　Certainly not from Eagle Trust Fund, no.**

21 **No.**

22 　Q.　　Or from any other entity?

23 　**A.　　Well, if we go back in history, during**

24 **Phyllis' lifetime she did derive some modest amount**

25 **of income from the database for several years.　I**

1   think probably in the '90s. I've seen evidence of

2   that but certainly not in the last 15 years or so.

3   Q.   In the '90s how did Phyllis derive

4   income from the database?

5   A.   She permitted a friendly organization,

6   friendly to her, to make use of some of the names

7   on the database by mailing to them. There was kind

8   of a -- there was a term in the trade called recent

9   expirees, people who are not current but maybe

10   recently failed to renew, failed to renew their

11   subscription to The Phyllis Schlafly Report. And

12   it was common back then for people to put recent

13   expirees and make them available for other

14   organizations to solicit, so she did that a few

15   times.

16   Q.   What friendly organizations did she do

17   that with?

18   A.   Well, I remember that -- let's see. I'm

19   trying to think the name of the -- it was a

20   friendly person who asked her for it. I'm not

21   certain of the organization. It might have been

22   the National Right to Life Committee.

23   Q.   Who was the person?

24   A.   Her name has slipped my mind at the

25   moment. It will come to me, I believe. I know who

1 organization or the mailing house that was used to

2 send those letters, correct?

3   **A.   Well I don't have any written documents**

4 **supporting that. But what I am relying on is the**

5 **fact that this is such a -- such standard operating**

6 **procedure in the trade, in the fundraising trade,**

7 **in the industry of people who rent and manage**

8 **mailing lists. And my belief is that everybody who**

9 **is in this line of work is very, very careful about**

10 **respecting the proprietary nature of mailing lists.**

11 **And they would never divulge one customer's list to**

12 **another customer, that they would go out of**

13 **business if they did. So you are really relying on**

14 **those commercial friendships more than anything**

15 **else.**

16   Q.   The license that PSRT grants to the

17 Eagle Trust Fund as to the database, that's a

18 non-exclusive license, correct?

19   **A.   Yes.**

20   Q.   Is that revocable at will like the

21 others?

22   **A.   Yes, I guess so.**

23   Q.   And are there any specific terms as to

24 the or conditions on the use?

25   **A.   The main terms -- no, of course in the**

1 industry, the trade I've referred to, the

2 fundraising trade, the general procedure is that

3 when you share a list with somebody they pay you

4 for it. But, so the principal difference is that

5 with Eagle Trust Fund and with the organizations

6 managed by Eagle Trust Fund and supported by

7 Phyllis Schlafly, none of these organizations ever

8 paid each other for the use of any of these lists

9 and the access to Phyllis' list was that a large

10 part of the benefits of this entire setup with

11 Eagle Trust Fund. So it meant for example that

12 when Eagle Forum got started in 1975, it did not

13 have to pay Eagle Trust Fund for the use of Eagle

14 Trust Fund's list. Phyllis allowed Eagle Forum to

15 get off and build itself debt free. Any other new

16 organization would have had to go into debt in

17 order to rent somebody else's mailing list, but

18 Eagle Forum didn't have to do that because Phyllis

19 had already built up a tremendously successful list

20 of her readers, subscribers, supporters and fans

21 and she allowed Eagle Forum in effect to get the

22 benefit of those lists rent free. And I only wish

23 that the people who are running Eagle Forum now

24 would have the decency to be grateful for that

25 benefit. That's the reason why there was four

 1 million dollars in the bank at the time of the coup

 2 in 2016.

 3   Q.   I think you referred to the database as

 4 a collection of lists, right?

 5   A.   Yeah.

 6   Q.   Does EFELDF have a license to use that

 7 collection of lists?

 8   A.   Well, there again, Eagle Trust Fund

 9 manages the Phyllis Schlafly list for the benefit

10 of EFELDF.

11   Q.   And do they have a license?

12   A.   There is no written license. But since,

13 you know, the normal practice was that Phyllis

14 Schlafly would send out The Phyllis Schlafly Report

15 to her subscribers and include with that

16 publication a letter in which she would invite her

17 subscribers to donate to any of these

18 organizations. She would talk about the causes

19 they were doing. Every month it was something

20 different. And she would invite people to check

21 the box as to which cause or which organization

22 they wanted to support. And then when the checks

23 came back, the intention of the donor was honored

24 and that's how the -- that's how EFELDF also raised

25 money without having to pay fees.

1   Q.   I asked you whether EFELDF was a

2 licensee of the list. That was it.

3   **A.   Okay.**

4   Q.   Is it? Yes or no?

5   **A.   Well, EFELDF does not directly use the**

6 **list.**

7   Q.   Okay. So it's not a licensee. A

8 license has not been granted to EFELDF?

9   **A.   No.   That's correct. But Eagle Trust**

10 **Fund, you know, every month, I mean, EFELDF in**

11 **effect has to go begging to Eagle Trust Fund to**

12 **send out letters on its behalf just as Eagle Forum**

13 **did.**

14   Q.   Did Eagle Forum ever have a license to

15 use the list?

16   **A.   No.**

17   Q.   The only licensee of the list in your

18 opinion based on your position is Eagle Trust Fund?

19   **A.   Yes.**

20   Q.   Did Eagle Trust Fund have the right to

21 license the list to other entities?

22   **A.   Well I get there's no written**

23 **restrictions. I guess it's up to the trustees of**

24 **Eagle Trust Fund, but I don't think the trustees**

25 **have ever licensed to any organization except those**